

State of Hawaii
DEPARTMENT OF HEALTH

STATUTE ON ENVIRONMENTAL QUALITY

Act 100, Session Laws of Hawaii, 1972



DEPARTMENT OF HEALTH

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ENVIRONMENTAL QUALITY

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ENVIRONMENTAL QUALITY

PART I. DEFINITIONS AND GENERAL PROVISIONS

Sec. -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) "Complaint" means any written charge filed with or by the department that a person is violating any provision of this chapter or any rule, regulation, or order promulgated pursuant to this chapter.
- (2) "Department" means the department of health.
- (3) "Director" means the director of health.
- (4) "Party" means each person or agency named as party or properly entitled to be a party in any court or agency proceeding.
- (5) "Permit" means authorization to discharge waste which, when granted, takes into account the public interest and contains a schedule of abatement approved by the director; or authorization to construct, modify, or operate any air pollution source; or authorization to emit excessive noise; or authorization to operate a sanitary landfill or open dump.
- (6) "Person" means any individual, partnership, firm, association, public or private corporation, the State or any of its political subdivisions, trust estate or any other legal entity.
- (7) "Pollution" means air pollution, water pollution, or excessive noise as hereinafter defined.
- (8) "Treatment works" means any plant or other facility used for the purpose of controlling pollution.
- (9) "Variance" means authorization to discharge waste when, after public hearing the director finds that the continuance of the function or operation causing the waste discharge to be in the public interest, the value of the continuance to outweigh the harm caused by the waste discharge, and which does not require an immediate schedule of abatement.
- (10) "Waste" means sewage, industrial and agricultural waste, and all other liquid, gaseous, or solid substance, including radioactive substance, whether treated or not, which may pollute or tend to pollute the atmosphere, lands or waters of this State.

Sec. -2 **Administration.** The department shall administer this chapter through the director. The director may delegate to any person such power and authority vested in him by this chapter as he deems reasonable and proper for the effective administration of this chapter, except the power to make rules and regulations.

Sec. -3 **Powers, rule-making.** The director may make, amend and repeal state rules and regulations controlling and prohibiting air pollution, water pollution, noise pollution, solid waste pollution, and any other form of pollution found in this State. All rules and regulations shall be adopted pursuant to chapter 91; provided that no rule or regulation, amendment or repeal made after the effective date of this chapter, shall be effective until 60 days after adoption and approval thereof and after notice of the adoption thereof has been published in a newspaper of general circulation in the area of the State affected thereby. Any person heard at the public hearing shall be given written notice of the action taken by the department with respect to the rules or regulations.

Sec. -4 **Fees.** The director may establish reasonable fees for the issuance of permits and variances to cover the cost of issuance thereof. The fees shall be deposited to the credit of the general fund.

Sec. -5 **Public records; confidential information; penalties.** Reports submitted to the department on discharges of waste shall be made available for inspection by the public during established office hours unless such reports contain information of a confidential nature concerning secret processes or methods of manufacture. Any officer, employee, or agent of the department acquiring confidential information from the inspection authorized by section -10 who divulges information except as authorized in this chapter or except as ordered by a court or at an administrative hearing regarding an alleged violation of this chapter or of any rule or regulation or standard promulgated pursuant to this chapter shall be fined not more than \$1,000.

Sec. -6 **Permits; procedures for.** (a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary in order for it to determine whether the proposed installation, alteration, or use will be in accord with applicable rules, regulations, and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if he determines that such will be in the public interest; provided that the permit may be subject to such reasonable conditions as the director may prescribe. The director, on application, shall renew a permit from time to time for a term not exceeding five years if he determines that such is in the public interest. The director may, on application, modify the conditions of a permit in any manner consistent with the public interest. The director shall not deny an application for the issuance, renewal, or modification of a permit without affording the applicant a hearing in accordance with chapter 91.

The director may, on his own motion or the application of any person, modify, suspend, or revoke a permit if, after a hearing in accordance with chapter 91, he determines that such is in the public interest.

In determining the public interest, the director shall consider the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the action be implemented, the alternatives to the proposed action, the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented, and any other factors which the director may by rule prescribe; provided that any determination of public interest shall promote

the optimum balance between economic development and environmental quality.

(d) The failure of the director to grant an application for the issuance of a permit or an application by a permit holder for the modification or renewal thereof within ninety days of the receipt of such application shall be deemed a grant of such application so long as the applicant acts consistently with the application and all plans, specifications, and other information submitted as a part thereof.

(e) No applicant for a permit or a modification or renewal thereof shall be held in violation of this chapter during the pendency of his application so long as he acts consistently with the application and all plans, specifications, and other information submitted as a part thereof.

Sec. -7 **Variances.** (a) Every application for a variance shall be made on forms furnished by the department and shall be accompanied by a complete and detailed description of present conditions, how present conditions do not conform to standards, and such other information as the department may by rule or regulation prescribe.

(b) Each application for a variance shall be reviewed in light of the descriptions, statements, plans, histories, and other supporting information submitted with the application, such additional information as may be submitted upon the request of the department, and the effect or probable effect upon the air and water quality standards and noise level standards established pursuant to this chapter.

(c) Whenever an application is approved, the department shall issue a variance authorizing the emission or discharge of pollutant or noise in excess of applicable standards. No variance shall be granted by the department unless the application and the supporting information clearly show that:

- (1) The continuation of the function or operation involved in the discharge of waste by the granting of the variance is in the public interest;
- (2) The emission or discharge occurring or proposed to occur does not substantially endanger human health or safety; and
- (3) Compliance with the rules, regulations or standards from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(d) Any variance or renewal thereof shall be granted within the requirements of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention control or abatement of the pollution or excessive noise involved, it shall be only until the necessary means for prevention, control, or abatement become practicable and subject to the taking of any substitute or alternate measures that the department may prescribe. No renewal of variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the pollution or excessive noise involved.
- (2) The director may issue a variance for a period not exceeding ten years.
- (3) Every variance granted under this section shall include conditions requiring the grantee to perform air, discharge, effluent, or noise

sampling and report the results of such sampling to the department.

(e) Any variance granted pursuant to this section may be renewed from time to time on terms and conditions and for periods not exceeding ten years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided, further, that the renewal, and the variance issued in pursuance thereof, shall provide for emission or discharge not greater than that attained pursuant to the terms of the immediately preceding variance at its expiration. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty days prior to the expiration of the variance.

(f) No variance granted pursuant to this part shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

Sec. -8 Cease and desist orders.

(a) If the director determines that any person is:

(1) violating this chapter; or

(2) violating any rule or regulation promulgated under this chapter; he may cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which the person shall be required to take such measures as may be necessary to correct the violation and to give periodic progress reports. Any such order shall become final unless no later than 20 days after the date of notice and order are served, the person or persons named therein request in writing a hearing before the director. Upon such request, the director shall require that the alleged violator or violators appear before him for a hearing at a time and place specified in the notice and answer the charges complained of.

In lieu of an order, the director may require that the alleged violator or violators appear before him for a hearing at a time and place specified in the notice and answer the charges complained of.

(b) If after a hearing held pursuant to subsection (a) of this section, the director finds that a violation or violations have occurred, he shall affirm or modify his order previously issued or issue an appropriate order or orders for the prevention, abatement or control of the violation or discharges involved, or for the taking of such other corrective action as may be appropriate. If, after hearing on an order contained in a notice, the director finds that no violation has occurred or is occurring, he shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation or discharges.

(c) Any violation of an order issued by the director may at the discretion of the director subject the violator or violators to the penalties specified in section 11 and the injunction remedies specified in section 12.

The director is authorized to impose the penalty specified in section 11 and may institute a civil action in the name of the State to recover the civil penalty which shall be a government realization.

In any proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid.

(d) Nothing in this section shall prevent the director from making efforts to obtain voluntary compliance by warning, conference, or any other appropriate means.

(e) In connection with any hearing held pursuant to this section, the director shall have the power to subpoena the attendance of witnesses and the production of evidence on behalf of all parties.

Sec. -9 **Emergency powers; procedures.** (a) Notwithstanding any other law to the contrary, if the director determines that an imminent peril to the public health and safety is or will be caused by discharge of waste or any combination of discharges of waste, or excessive noise, which requires immediate action, he may, with the approval of the governor and without public hearing, order any person causing or contributing to the discharge of waste or excessive noise to immediately reduce or stop such discharge or emission or the director may take any and all other actions as may be necessary. Such order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director.

(b) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision, or inheres in the office.

Sec. -10 **Inspection of premises.** The director may in accordance with law enter and inspect any building or place, for the purpose of investigating an actual or suspected source of water, air, noise or other pollution and ascertaining compliance or noncompliance with this part or any rule, regulation or standard promulgated by the department and to make reasonable tests in connection therewith. No confidential information secured pursuant to this section by any official or employee of the department within the scope and course of his employment in the prevention, control, or abatement of water, air, noise, or other pollution shall be disclosed by the official or employee except as it relates directly to air, water, noise, and other pollution and then, only in connection with his official duties and within the scope and course of his employment.

Sec. -11 **Violations.** (a) Any person who violates this chapter or any rule or regulation promulgated by the department pursuant to this chapter shall be fined not more than \$2,500. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action.

(b) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building or place which he is authorized to enter and inspect under section 10 shall be fined not more than \$500.

Sec. -12 **Injunctive relief.** The director may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any violation of this chapter or any rule or regulation made thereunder. The court shall have power to grant relief in accordance with the Hawaii Rules of Civil Procedure.

Sec. -13 **Appeal.** If any party is aggrieved by the decision of the director, he may appeal in the manner provided in chapter 91 to the circuit court of the circuit in which he resides or has his principal place of business or in which the action in question occurred; provided that the operation of a cease and desist order will not be stayed on appeal unless specifically ordered by a court of competent jurisdiction.

Sec. -14 **Technical defect.** No rule or regulation of the department shall be declared to be invalid because of any technical defect.

Sec. -15 **Nonliability of department personnel.** Notwithstanding any other law to the contrary, no member, officer, or employee of the department shall be criminally liable or responsible under this chapter for any acts done by the member, officer, or employee in the performance of his duties; provided that this section shall not apply to violations of section 5.

Sec. -16 **Other action not barred.** No existing civil or criminal remedy for any wrongful action which is a violation of any statute or any rule or regulation of the department or the ordinance of any county shall be excluded or impaired by this chapter.

Sec. -17 **Enforcement by state and county authorities.** All state and county health authorities and police officers shall enforce this chapter and the rules, regulations, and orders of the department.

Sec. -18 **Other powers of department not affected.** The powers, duties, and functions vested in the department under this chapter shall not be construed to affect in any manner the powers, duties, and functions vested in the department under any other law.

Sec. -19 **Effect of laws, ordinances, rules, and regulations.** (a) All laws, ordinances, rules, and regulations inconsistent with this part shall be void and of no effect.

(b) Any county may adopt ordinances, rules, and regulations governing any matter relating to environmental quality control which is not governed by a rule or regulation of the department adopted pursuant to this part; provided that any county ordinance, rule, or regulation relating to environmental quality control shall be void and of no effect as to any matter regulated by a rule or regulation of the department upon the adoption thereof.

Sec. -20 **Priority in courts.** All actions brought pursuant to this chapter or pursuant to the rules or regulations promulgated under this chapter shall in the discretion of the court receive priority in the courts of the State.

PART II. AIR POLLUTION

Sec. -21 **Definitions.** As used in this part, unless the context otherwise requires:

- (1) "Air pollution" means the presence in the outdoor air of substances in quantities and for durations which endanger human health or welfare, plant or animal life, or property or which unreasonably interfere with the comfortable enjoyment of life and property through the State and in such areas of the State as are affected thereby, but excludes all aspects of employer-employee relationships as to health and safety hazards. These substances include, but are not limited to smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, particulate matter, or any combination of these.

Sec. -22 Powers and duties, specific. In addition to any other power or duty prescribed by law in this part, the director shall prevent, control, and abate air pollution in the State. In the discharge of this duty, the director may:

- (1) Establish by rule or regulation specific areas for control of air pollution, thereby allowing for varying local conditions;
- (2) require private persons or agencies or governmental agencies engaged or desiring to engage in operations which result or may result in air pollution to secure a permit prior to installation or operation or continued operation. The director shall refuse to issue the permit unless it appears that the operations would be in compliance with the rules and regulations of the department and the state ambient air quality standards. The director may also require the persons or agencies to submit plans and the filing of reports by the persons or agencies containing the information relating to location, size of outlet, height of outlet, rate incurred at emission and composition of discharge and such other matters relative to air pollution as the department shall prescribe to be filed.
- (3) require the owner or operator of any emission source to (a) establish and maintain such records; (b) make such reports; (c) install, use and maintain such monitoring equipment or methods; (d) sample such emission; and (e) provide such other information as the department may require.
- (4) conduct and supervise research programs for the purpose of determining the causes, effects, hazards or means to monitor or abate sources of air pollution.
- (5) conduct and supervise state-wide educational and training programs on air pollution prevention, control, and abatement, including the preparation and distribution of information relating to air pollution.
- (6) appoint a master or masters to conduct investigations and hearings.
- (7) receive or initiate complaints on air pollution, hold hearings in connection with air pollution, and institute legal proceedings in the name of the state for the prevention, control, or abatement of air pollution.
- (8) with the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the state or from private sources for the study and control of air pollution.
- (9) establish ambient air quality standards for the state as a whole or for any part thereof.
- (10) require the installation, use, and proper maintenance of air pollution control equipment for motor vehicles.
- (11) establish and carry out a program of inspection and testing of all modes of transportation except aircraft, to enforce compliance with applicable emission limitations when necessary and practicable and to control or limit the operation of motor vehicular and other modes of transportation when the director finds pursuant to standards established by rules and regulations such modes of transportation are producing or pose an immediate danger of producing unacceptable levels of air pollutants or when such control is necessary to meet applicable ambient air quality standards.

Sec. -23 **Prohibition.** No person, including any public body, shall engage in any activity which causes air pollution without first securing approval in writing from the director.

PART III. WATER POLLUTION

Sec. -31 **Definitions.** As used in this part, unless the context otherwise requires:

- (1) "Coastal waters" means all waters surrounding the islands of the State from the coast of any island to a point three miles seaward from the coast, and, in the case of streams, rivers, and drainage ditches, to a point three miles seaward from their point of discharge into the sea and includes those brackish waters, fresh waters and salt waters that are subject to the ebb and flow of the tide.
- (2) "Drainage ditch" means that facility used to carry storm run-off only.
- (3) "Effluent" means the discharge of any substance into state waters, including, but not limited to, sewage, waste, garbage, feculent matter, offal, filth, refuse, any animal, mineral, or vegetable matter or substance, and any liquid, gaseous, or solid substances.
- (4) "Effluent sources" include, but are not limited to, sewage outfalls, refuse systems and plants, water systems and plants, and industrial plants.
- (5) "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.
- (6) "State waters" means all waters, fresh, brackish, or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, and lakes; provided that drainage ditches, ponds, and reservoirs required as a part of a pollution control system are excluded.
- (7) "Water pollution" means:
 - (a) Such contamination or other alteration of the physical, chemical or biological properties of any state waters, including change in temperature, taste, color, turbidity, or odor of the waters, or
 - (b) Such discharge of any liquid, gaseous, solid, radioactive, or other substances into any state waters,as will or is likely to create a nuisance or render such waters unreasonably harmful, detrimental or injurious to public health, safety or welfare, including harm, detriment, or injury to public water supplies, fish and aquatic life and wildlife, recreational purposes and agricultural, industrial, research and scientific uses of such waters.

Sec. -32 **Powers and duties, specific.** In addition to any other power or duty prescribed by law and in this part, the director shall prevent, control, and abate water pollution in the State. In the discharge of this duty, the director may:

- (1) Establish by rule or regulation water quality standards and effluent standards for specific areas in the control of water pollution, thereby allowing for varying local conditions;

- (2) Appoint a master or masters to conduct investigations and hearings;
- (3) Consult with and advise any person engaged or intending to be engaged in any business or undertaking whose waste, sewage, or drainage is polluting or may tend to pollute state waters;
- (4) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of water pollution, the purity and potability of water and the means to monitor the quality of water, or to effect the proper disposal of sewage, drainage, and waste;
- (5) Conduct and supervise state educational and training programs on water pollution prevention, control, and abatement, including the preparation and distribution of information relating to water pollution;
- (6) Consult and advise persons intending to alter or to extend any system of drainage, sewage, or water supply;
- (7) Require complete and detailed plans or reports, on existing works, systems, or plants, and of any proposed addition to, modification of or alteration of any such works, system or plant which contain the information requested by the director in the form prescribed by him; which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner;
- (8) With the approval of the governor, cooperate with, and receive money from the federal government, or any political subdivision of the State or from private sources for the study and control of water pollution; and
- (9) Receive or initiate complaints of water pollution, hold hearings in connection with water pollution, and institute legal proceedings in the name of the State for the prevention, control, or abatement of water pollution.

Sec. -33 **Prohibition.** No person, including any public body, shall use any state waters for the disposal of waste or engage in activity which causes state waters to become polluted without first securing approval in writing from the director.

No person, including any public body, shall knowingly establish, extend, or alter any system of drainage, sewage, or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of currents depended upon for dilution without first securing approval in writing from the director.

Sec. -34 **Treatment works; construction grants.** The director may make grants to any state or county agency of state funds as authorized and appropriated by the legislature for the construction of necessary treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any state waters. He shall coordinate the granting of state funds with available federal funds for the same purpose. No grant shall be made for any project unless (1) the project conforms with the state water pollution control plan, (2) the project is certified by the director as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs, (3) the application for the grant contains reasonable assurances that the applicant will provide for the proper and efficient operation and maintenance of the treatment works after its construction, and (4) the applicant agrees to pay a predetermined portion of the estimated reasonable cost of the project. The

basic state grant shall take into account both the portion of the cost to be paid by the applicant and the amount of the federal grant for which the project is eligible, but shall not exceed twenty-five per cent of the estimated reasonable cost. Any additional state funds granted for any eligible project shall be reimbursable to the State from future federal funds made available for construction of necessary treatment works.

PART IV. NOISE POLLUTION

Sec. -41 **Definitions.** As used in this part, unless the context otherwise requires:

- (1) "Excessive noise" means the presence of sound as measured by standard testing devices as established by the noise rules and regulations promulgated by the department of a volume or in quantities and for durations which endangers human health, welfare or safety, animal life, or property or which unreasonably interferes with the comfortable enjoyment of life and property in the State or in such areas of the State as are affected thereby.

Sec. -42 **Powers and duties, specific.** In addition to any other duty prescribed by law and in this part, the director shall prevent, control, and abate excessive noise in the State. In the discharge of this duty, the director may:

- (1) Establish by rule or regulation specific areas for control of excessive noise, thereby allowing for varying local conditions;
- (2) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of excessive noise and the means whereby noise may be monitored, controlled, or abated;
- (3) Conduct and supervise state educational and training programs on noise prevention, control, and abatement, including the preparation and distribution of information relating to excessive noise;
- (4) Appoint a master or masters to conduct investigations and hearings;
- (5) Receive or initiate complaints of excessive noise, hold hearings in connection with excessive noise, and institute legal proceedings in the name of the State for the prevention, control or abatement of excessive noise; and
- (6) With the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the State or from private sources for the study and control of excessive noise.

Sec. -43 **Prohibition.** No person, including any public body, shall engage in activity which, produces excessive noise without first securing approval in writing from the director.

PART V. SOLID WASTE POLLUTION

Sec. -51 **Definitions.** As used in this part, unless the context otherwise requires:

- (1) "Solid waste" means garbage, refuse, and other discarded solid

materials, including solid waste materials resulting from industrial and commercial operations, and from community activities, but does not include solid or dissolved material in domestic sewage or other substances in water sources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants. This definition is also intended to include liquid waste materials such as waste oil, pesticide, paints, solvents, and hazardous waste.

- (2) "Approved solid waste disposal system" means a system for the disposal of solid waste approved by the director.
- (3) "Sanitary landfill" means a land site on which engineering principles are utilized to bury deposits of solid waste without creating a nuisance or hazard to public health or safety.
- (4) "Incineration" means the destruction of solid waste by burning in a furnace designed for the purpose wherein solid waste is essentially reduced to ash, carbon dioxide, and water vapor.
- (5) "Open dump" means an unregulated disposal site that is operating without required compaction and cover.
- (6) "Hazardous waste" includes, but is not limited to such items as plastics, explosives, acids, caustics, chemicals, poisons, drugs, asbestos fibers, pathogenic wastes from hospitals, sanatoriums, nursing homes, clinics, and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like.

Sec. -52 Powers and duties, specific. In addition to any other power or duty prescribed by law and in this part, the director shall prevent, control, and abate solid waste pollution in the State. In the discharge of this duty the director may:

- (1) Establish by rule or regulation the criteria for siting design, construction, and operation of solid waste disposal systems;
- (2) Appoint a master or masters to conduct investigations and hearings;
- (3) Consult with and advise any person engaged or intending to be engaged in the disposal of solid waste;
- (4) Conduct and supervise research programs for the purpose of determining the sources of solid waste, effects, and hazards of pollution associated with disposal systems;
- (5) Conduct and supervise state educational and training programs on solid waste disposal systems, including the preparation and distribution of information relating to solid waste pollution;
- (6) Require complete and detailed plans or reports on existing solid waste disposal systems and of any proposed addition to, modification of, or alteration of any such systems which contain the information requested by the director in the form prescribed by him, which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner; and
- (7) With the approval of the governor, cooperate with, and receive money from the federal government or any political subdivision of the State, or from private sources for the study and control of solid waste pollution.

Sec. -53 **Prohibition.** (a) No person, including any public body, shall engage in the operation of an open dump without first securing approval in writing from the director.

(b) No person, including any public body, shall operate a solid waste disposal system without first securing approval in writing from the director."

SECTION 2. Section 321-16; section 321-16.1; part V, chapter 322; part VI, chapter 322, and chapter 340, Hawaii Revised Statutes, as amended, are hereby repealed.

SECTION 3. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application and to this end, the provisions of the Act are severable.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred and proceedings that were begun before its effective date. This Act shall not be construed to invalidate currently existing rules and regulations of the department.

SECTION 5. This Act shall take effect three months after its approval.

APPROVED this 22nd day of May, 1972.

JOHN A. BURNS
Governor of the State of Hawaii